

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/788,315	YOON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Richard L. Raymond	1624	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Interview of August 2, 2004.
2. ☒ The allowed claim(s) is/are 3-18,25,26,30,42-48,50-56,60-66,68-72,74-76,78-88,90,91,93-98,102,106,107,109,113,115,121-125,130 and 133-144.

3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.

4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some\* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 8/20/01 & 4/24/02

4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)

6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 08/02/04.

7. ☒ Examiner's Amendment/Comment

8. ☐ Examiner's Statement of Reasons for Allowance

9. ☐ Other \_\_\_\_\_.

### EXAMINER'S COMMENTS

1. Note the change of Examiner in the present application. The Art Unit number (1624) remains the same.
2. In view of the arguments presented in the Response of May 3, 2004 and the Supplemental Response of July 7, 2004, the rejections of record have been overcome.
3. Upon review of the record, the restriction requirement of record is modified as follows:
4. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 3-8, 26, 30, 42, 43, 154, 155 and 162 (part), and 9-18, 25, 44-48, 50-56, 60-66, 68-72, 74-76, 78-88, 90, 91, 93-98, 102, 106, 107, 109, 113, 115, 121-125, 130 and 133-144, drawn to compounds where the  $R_2$  variable is attached to the pyrazine ring through a nitrogen atom and the corresponding compositions, classified in class 514, subclass 255.06.
  - II. Claims 3-8, 26, 30, 42, 43, 154, 155 and 162 (part) and 19-24, 49, 57-59, 67, 73, 77, 89, 92, 99-101, 103-105, 108, 110-112, 114, 116-120, 126-129, 145 and 146, drawn to compounds where the  $R_2$  variable is attached to the pyrazine ring through an oxygen or sulfur atom and the corresponding compositions, classified in class 514, subclass 252.1.
  - III. Claims 3-8, 26, 30, 42, 43, 154, 155 and 162 (part), drawn to compounds where the  $R_2$  variable is attached to the pyrazine ring through a carbon

atom and the corresponding compositions, classified in class 514,  
subclass 252.1.

The inventions are distinct, each from the other because of the following reasons:

5. Inventions I, II and III are structurally diverse and patentably distinct one from the others. A reference anticipating one under 35 USC 102 would not be a reference against the others under 35 USC 103.
6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
7. During a telephone conversation with John Alexander on August 2, 2004 an election was made without traverse to prosecute the invention of Group I.

#### **EXAMINER'S AMENDMENT**

8. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
9. Authorization for this examiner's amendment was given in the above telephone interview with John Alexander on August 2, 2004.
10. The application has been amended as follows:

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(1) Nonelected claims 19-24, 49, 57-59, 67, 73, 77, 89, 92, 99-101, 103-105,

108, 110-112, 114, 116-120, 126-129, 145 and 146 have been canceled.

(2) Claim 154 has been canceled as being a substantial duplicate of claim 30.

(3) Claim 155 has been canceled as being dependent on a canceled claim.

(4) Claim 162 has been canceled as being a substantial duplicate.

(5) In claim 3, lines 5 and 6 below the formula (the  $R_2$  definition) have been rewritten:

--  $R_2$  is selected from the group consisting of  $-NHR_A$ ,  $-NR_BR_A$ ,

$-NHC(=O)R_A$ ,  $-NR_BC(=O)R_A$ ,  $-NHS(O)_nR_A$ ,  $-NR_BS(O)_nR_A$  and a 3- to 7-

membered N-heterocyclic group, with the point of attachment being

through the nitrogen atom, which may contain one or more additional

heteroatom(s) selected from N, O and S, which is saturated, unsaturated

or aromatic, and which may be substituted with one or more substituents

selected from halogen, haloalkyl, oxo, hydroxy, amino,  $C_{1-4}$  alkyl,  $-O(C_{1-4}$

alkyl),  $-NH(C_{1-4}$  alkyl),  $-N(C_{1-4}$  alkyl)( $C_{1-4}$  alkyl), and  $-S(O)_n(C_{1-4}$ alkyl)

wherein  $R_A$ ,  $R_B$  and  $n$  are defined below and with the proviso that  $R_2$  is not

$-NH_2$ ; and --.

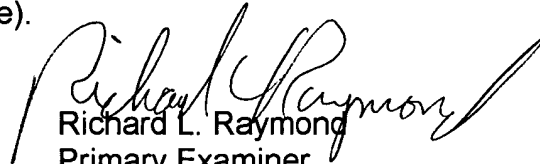
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L. Raymond whose telephone number is (571) 272-0673. The examiner can normally be reached on maxi-flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mukund Shah can be reached on (571) 272-0674. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Richard L. Raymond  
Primary Examiner  
Art Unit 1624

rr  
August 2, 2004